

THE STATE OF VERMONT

CHITTENDEN, SS

SUPERIOR COURT  
CIVIL DIVISION

Celia Roessler, Individually, and as Next Friend of J.R. **VERMONT SUPERIOR  
COURT**

vs.

**MAR 04 2019**

State of Vermont; OAS, LLC d/b/a Valley Vista; Meridian Behavioral Health, LLC; and **CHITTENDEN UNIT**  
Doe Defendants 1-10

**COMPLAINT & DEMAND FOR JURY TRIAL**

The aforementioned Plaintiffs allege as follows upon actual knowledge with respect to themselves and their own acts, and upon information and belief as to all other matters.

**NATURE OF THE ACTION**

Plaintiffs bring this lawsuit against the State of Vermont and Valley Vista to obtain justice for the preventable sexual violence and trauma they endured on January 5, 2019. On that day, Celia Roessler, a 23-year-old mother, and J.R., her four-year-old son – both New Hampshire residents - went to the Mall of New Hampshire with Celia's mother and grandmother for their usual Saturday family lunch. After lunch, Celia brought J.R. to Payless Shoes to buy a new pair of winter boots, eventually leaving the mall about 10 minutes after her mother and grandmother. Around 12:45 p.m., Plaintiffs walked to their car in the parking lot. In broad daylight and after she had buckled her son into his car seat, Celia was violently elbowed by a male and pushed into the passenger seat of her vehicle. Plaintiffs suddenly found themselves kidnapped, terrified, and at the mercy of their abductor.

It has since been revealed that their abductor, Mr. Everett Simpson, was known by Defendants to be a dangerous and violent criminal and a significant flight risk, and further that he had been awaiting trial in the State of Vermont for multiple charges, including violent felony assault resulting from a September 2018 arrest. Just days before Plaintiffs' abduction, Mr. Simpson's bail had been significantly reduced and he was transferred from a locked-down Vermont correctional facility to a private, non-locked down substance abuse treatment facility called Valley Vista. Mr. Simpson's criminal history aside from his underlying charges in September 2018 is lengthy and includes multiple felony charges, child cruelty, stalking, escaping from authorities, and repeatedly violating probation and court orders.

Following their kidnapping, Plaintiffs were subject to certain torment. Mr. Simpson kept Celia's phone to prevent her from calling for help. Upon arrival in Vermont, Mr. Simpson held Plaintiff's hostage while demanding that Celia assist in seeking his wife. Things took a turn when Mr. Simpson could not locate his wife. They were driven to a remote road where Mr. Simpson attempted to rape Celia. With her pants down to her ankles, she was able to scream for help to nearby joggers until Mr. Simpson drove off at 90 MPH. Mr. Simpson repeatedly and aggressively controlled Celia by pulling and grabbing her by her hair. J.R. wet himself throughout the day out of terror. Eventually, Mr. Simpson brought Plaintiffs to a motel in Vermont, forced Celia to pay for the room, and then violently raped her in front of her son J.R.

Before leaving, Mr. Simpson took Celia's driver's license, wrote down her address, and told her that he knows where she lives and that if she contacts the police, he will find her and kill her. He then left Plaintiffs in the hotel room, stole Celia's Kia Forte, and took off. Celia waited approximately 5 minutes to make sure he was gone, and then called the police. Officers noted that Celia was trembling while she was speaking with them, was looking up and down the

hallway, and appeared to be terrified. They also noted that J.R. was crying and had urinated in his pants.

Mr. Simpson later totaled Celia's Kia while attempting to evade authorities, further leaving them without a vehicle, Celia's phone, or even the pair of winter boots that they had bought at Payless Shoes. Not only has this young family been subjected to physical, emotional, and psychological trauma, they were also thrown into an immediate financial and logistical crisis.

There are no words that can appropriately describe how this ordeal has impacted, and will forever continue to impact Celia and her son J.R. As U.S. Magistrate Judge John Conroy remarked at Mr. Simpson's recent detention hearing, "This is an exceedingly serious case." Plaintiffs as well as local communities throughout New Hampshire and Vermont have been left shocked, feeling unsafe and demanding answers as to how a dangerous Vermont criminal defendant was allowed to escape, cross state lines into New Hampshire, and commit such heinous acts against two innocent New Hampshire residents.

It has become clear that this entire tragedy could have easily been prevented, but for Defendants' continued gross negligence and/or conscious disregard of the consequences of their actions. It has also become clear that this is far from an isolated incident.

Mr. Simpson was released from a Vermont correctional facility to Valley Vista under very specific court-ordered terms on January 3, 2019. As part of these court-ordered terms, Vermont and Valley Vista voluntarily undertook and/or had a duty to undertake the performing of certain services in the event Mr. Simpson escaped the facility:

**Defendant will sign a release authorizing Valley Vista to immediately notify police if he leaves against medical advice (AMA) and that an arrest warrant will issue immediately if he does leave AMA.**

These are not standard terms of release; rather, they were put in place for very specific reasons. Vermont and Valley Vista assumed these critical duties in part due to the nature of Mr. Simpson's September 13, 2018 arrest - the reason he had been detained at a local correction facility and was awaiting trial in the first place. On September 13, 2018, Mr. Simpson stole an SUV from a hospital in Littleton, NH, leading to a high-speed chase with authorities. Mr. Simpson then violently resisted arrest, including attempting to take Sgt. Winn's gun from its holster, which broke Sgt. Winn's hand in the process. Mr. Simpson was arraigned on two felony and three misdemeanor charges: aggravated assault of a law enforcement officer, gross negligent operation, attempting to elude, aggravated operation without owner's consent, and excessive speed.

As Judge Robert Bent noted during Mr. Simpson's September arraignment hearing: "He attempted to flee from police. It's sort of axiomatic that he's a flight risk." As a result, Mr. Simpson was initially jailed on \$20,000 bail at a local correction facility while he was awaiting trial.

More than two months into his detention at a Vermont correctional facility, Mr. Simpson filed a series of motions seeking to reduce and even strike his bail entirely on the basis that he required substance abuse treatment at Valley Vista. As further explained in the timeline below, the Court first reduced bail down to \$5,000, and finally down to \$3,000, with Judge Bent stating:

"The court is disinclined to do it — to modify the bail," Bent said. "If \$3,000 will do it, the court would take it to \$3,000, but I need to have some substantial bail down because when the blue lights came on he took his car to 90 mph and attempted to elude, that does not warm the cockles of my heart... Somebody is going to have to come up with sufficient funds so that he will likely return ... I'll move it to \$3,000 on his record, but not strike it entirely."

The court again further ordered the terms of release quoted above: Valley Vista had a duty to immediately notify authorities if he departed their facility, and Vermont had a duty to issue an arrest warrant for him. These court-ordered duties, and the circumstances that gave rise to them, are important aspects of this case.

These court-ordered duties were assumed and/or ordered because Vermont and Valley Vista knew that Mr. Simpson posed a serious flight risk and risk of harm to others, including the specific risks of evading authorities, motor vehicle theft, and committing felony assault. Vermont and Valley Vista knew that the terms of his release and transfer were specifically designed to protect against that serious risk of harm he posed to others. Vermont and Valley Vista knew that if they failed to discharge their most minimum of duties as found in the court-ordered terms, that such failures would increase the risk of harm to third parties such as Plaintiffs.

One clearly foreseeable consequence of Vermont and/or Valley Vista's failure to discharge its duties is that Mr. Simpson would again commit the types of acts for which he was already awaiting trial. As explained below, the State of Vermont has already admitted that the crimes Mr. Simpson committed against Plaintiffs were "in fact... exactly like the underlying charge."

Vermont and Valley Vista grossly breached their duties. It took Valley Vista at least an hour and a half to realize and/or choose to notify Vermont State Police that Mr. Simpson had left their facility. This significant delay is inexcusable and a far cry from "immediate." As discussed below, this is not the first time that Valley Vista has chosen to wait hours before notifying authorities that a transferred criminal defendant had escaped from its facility. Valley Vista's breaches of duty increased the risk of harm to Plaintiffs by gifting Mr. Simpson no less than an

hour and a half head-start on his foreseeable crime spree. Likewise, upon being notified, Vermont knew it had a duty to, at a minimum, issue an arrest warrant, which it failed to do. Vermont's breaches of duty also increased the risk of harm to Plaintiffs.

The combined and ongoing failures of Valley Vista and Vermont had a synergistic effect. Had Vermont and Valley Vista done the bare minimum and complied with the terms of Mr. Simpson's release, Mr. Simpson's zone of danger would never have expanded past the local community surrounding Valley Vista and his estranged wife Sherise, and more likely than not he would have been arrested and re-detained. Instead, due to Defendants' continued gross negligence, Mr. Simpson was gifted the opportunity to steal a car several miles away from Valley Vista, make a 100+ mile journey across state lines into New Hampshire, walk around the community of Manchester for no less than four hours, and still have time to peruse the Mall of New Hampshire - all before kidnapping Plaintiffs. Mr. Simpson even showed Celia blisters on his feet, boasting that he developed them from doing so much walking around Manchester before he kidnapped her. It was only because of Valley Vista and/or Vermont's ongoing and combined failure to do the bare minimum that Mr. Simpson's zone of danger reached to Plaintiffs here.

This is not the first incident of its kind, nor will it be the last. As further explained below, Vermont's bed shortage for inmates and recent "criminal justice reform initiatives" makes it inevitable that violent criminal defendants like Mr. Simpson will continue to be let out on little to no bail and/or transferred to non-locked down facilities in residential areas. There remains great risk to public safety.

Plaintiffs' complaint simply seeks to hold the state of Vermont and Valley Vista accountable under the unique facts and circumstances of this case. If there is no liability for Vermont and Valley Vista under these circumstances- then they will be allowed to act with

impunity, similar incidents will continue to occur, and the consequences of their failures will fall squarely on local communities and innocent victims like Celia and J.R., instead of those responsible.

## **PARTIES**

1. At all relevant times, Plaintiff Celia Roessler was a U.S. citizen and a resident of New Hampshire.

2. At all relevant times, Plaintiff J.R. was a minor, a U.S. citizen, and a resident of New Hampshire.

3. At all relevant times, Defendant OAS, LLC d/b/a Valley Vista, was an inpatient residential treatment center with a place of business at 23 Upper Plain, Bradford, VT 05033.

4. At all relevant times, Defendant State of Vermont, is a government entity with an address of the Attorney General, 109 State Street, Montpelier, VT 05609.

5. At all relevant times, Defendant Meridian Behavioral Health, LLC was a limited liability company with an address of 550 Main Street, Suite 190, New Brighton, MN 55112.

6. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants DOES 1 through 10, are unknown to Plaintiffs who therefore sue these defendants by such fictitious names. Plaintiffs will amend this complaint when the true names and capacities of these fictitiously named defendants are ascertained. Plaintiffs are informed and believe, and thereon allege, that each fictitiously named defendant, whether as a corporate entity, employee, state trooper, manager, supervisor, parent company, or subsidiary, is responsible, strictly, negligently, in warranty, fraudulently or otherwise, for the occurrences alleged in this complaint and caused the injuries and damages sustained by Plaintiff as herein alleged.

## **ALLEGATIONS**

### **JANUARY 5, 2019 INCIDENT**

7. On January 5, 2019, Celia Roessler, a 23-year-old mother, and J.R., her four-year-old son, went to the Mall of New Hampshire with Celia's mother and grandmother for their usual Saturday family lunch. After lunch, Celia brought J.R. to Payless Shoes to buy a new pair of winter boots, eventually leaving the mall about 10 minutes after her mother and grandmother did.

8. Around 12:45 p.m., Plaintiffs left the mall and made their way to their car in the parking lot. In broad daylight and after she had buckled her son into his car seat, Celia was violently elbowed by a male and pushed into the passenger seat of her vehicle. Suddenly, Plaintiffs found themselves kidnapped, terrified, and at the mercy of their abductor, Mr. Everett Simpson.

9. Following their kidnapping, Plaintiffs were subject to certain torment. Mr. Simpson kept Celia's phone to prevent her from calling for help. Upon arrival in Vermont, Mr. Simpson held Plaintiff's hostage while demanding that Celia assist in seeking his wife. Things took a turn when Mr. Simpson could not locate his wife. They were driven to a remote road where Mr. Simpson attempted to rape Celia. With her pants down to her ankles, she was able to scream for help to nearby joggers until Mr. Simpson drove off at 90 MPH. Mr. Simpson repeatedly and aggressively controlled Celia by pulling and grabbing her by her hair. J.R. wet himself throughout the day out of terror. Eventually, Mr. Simpson brought Plaintiffs to a motel in Vermont, forced Celia to pay for the room, and then violently raped her in front of her son J.R.

10. Celia and her son J.R. feared for their life throughout this whole ordeal. But for Celia's brave and selfless actions, Plaintiffs would have likely been killed.

11. Before leaving, Mr. Simpson took Celia's driver's license, wrote down her address, and told her that he knows where she lives and that if she contacts the police, he will find her and kill her. He then left Plaintiffs in the hotel room, stole Celia's vehicle, and took off. Celia waited approximately 5 minutes to make sure he was gone, and then called the police. Officers noted that Celia was trembling while she was speaking with them, was looking up and down the hallway, and appeared to be terrified. They also noted that J.R. was crying and had urinated in his pants.

12. Mr. Simpson was eventually found and arrested in Upper Darby, Pennsylvania. In an affidavit filed by Upper Darby Detective Christopher Karr, Prospect Park police officers James Mansfield and Kyle Gross were on patrol in the 1200 block of Lincoln Avenue when an automatic license plate reader on Mansfield's patrol car got a hit for a stolen 2014 Kia Forte with New Hampshire plates that was traveling north on that street.

13. Gross turned on his emergency lights to conduct a traffic stop in the areas of Kedron and Franklin Avenues when the Kia driver, reportedly Simpson, fled at a high rate of speed along Franklin Avenue. Simpson would elude police through Ridley Township, Morton and Springfield before reaching stopped traffic at the intersection of Providence Road and North Avenue. He allegedly hit two cars while trying to go around traffic to make his way up North Avenue. He turned into a parking lot behind a mattress store on Baltimore Pike, at which point Gross lost sight of the vehicle and a police perimeter was established. The vehicle was later found in a parking lot at the Laurel Manor Apartments in the first block of North Avenue in the Secane section of Upper Darby.

14. Simpson ditched the vehicle while wearing a red/orange short sleeve shirt and brown baseball cap.

15. According to Upper Darby Police Superintendent Michael Chitwood, someone called 911 saying a man was trying to enter the sewage culverts by the Primos-Secane Swim Club. Police arrived at the scene with K-9 units to sniff him out to no avail.

16. Sometime later, a call was received about a stolen red Pontiac Vibe from the Bishop Hill Apartments on South Bishop Avenue not far from the culverts.

17. A resident of the apartment complex was reportedly bringing in groceries to her building when she came out to see that her vehicle was being driven in reverse at a high rate of speed, says the affidavit. The car was reportedly left running with the woman's purse and cell phone in the vehicle.

18. Police were able to ping the cell phone and locate Simpson's whereabouts, getting a notification that he was in the area of South and Armstrong avenues in Ridley Township at 5:54 p.m. At 5:55, Ridley Police Sgt. James Gieder saw the Pontiac Vibe in the parking lot of the Our Lady of Fatima Church with a lone male occupant in the driver's seat. As he approached, Simpson took off at a high rate of speed up South Avenue toward the direction of waiting Upper Darby officers stationed at South Avenue and Providence Road.

19. Karr wrote in his affidavit that he saw the vehicle going at a high rate of speed coming close to hitting his police car, other drivers, and almost crashing on the SEPTA train tracks at South and Providence.

20. Simpson sped across Providence Road toward Baltimore Pike before crashing into a utility pole on Highland Avenue in Morton.

21. Karr, Gieder, Upper Darby Detective Sgt. Philip Lydon and a slew of other responding officers approached the crashed vehicle shouting verbal commands to the operator,

Simpson, who would not respond. Simpson kicked open the driver's side door to flee but did not exit the vehicle.

22. Simpson eventually had to be tased by officers, bringing him under control and initiating his arrest.

23. Sexual violence is a widespread problem that affects all communities and society as a whole, in addition to the survivors and their loved ones. The litany of statistics and literature on the devastating effects of sexual assault speaks for itself.

24. Celia and her son J.R. now find themselves part of those statistics, including the 1 in 3 women and 1 in 6 men who have experienced some sort of sexual violence in their lifetime. 13% of female rape survivors attempt suicide. Even more suffer from ongoing PTSD and other lingering psychological effects. Annually, rape costs the U.S. more than any other crime (\$127 billion), followed by assault (\$93 billion), murder (\$71 billion), and drunk driving, including fatalities (\$61 billion).

25. Plaintiffs and local communities throughout New Hampshire and Vermont have been left in shock, feeling unsafe, and demanding answers as to how a dangerous Vermont criminal defendant could be allowed to escape, cross state lines into New Hampshire, and commit such heinous acts against two innocent New Hampshire residents.

### **VERMONT'S SHORTAGE OF BEDS FOR INMATES**

26. In Vermont's state system, there are only approximately 1,750 men and women incarcerated on any given day. This includes people in jail (detained but not sentenced or sentenced to less than a year) as well as people in prison (sentenced to more than one year). In Vermont's unified system, these populations live together in the same correctional facilities.

27. Vermont has one of the lowest incarceration rates in the country, with only 328 people per 100,000 incarcerated. That is less than half the national average.

28. Yet, for many years, Vermont has chosen to maintain only approximately 1,600 beds across all of its in-state correctional facilities. This has created an ongoing logistical problem whereas, at any given time, Vermont has approximately 200 more inmates than beds.

29. Over the years, Vermont has employed various measures and interventions to deal with this problem. Notably, the issue was never one of over-jailing per se, but rather a practical and logistical issue of how to handle Vermont's decision to maintain a low number of beds for inmates.

30. One of the more controversial ways Vermont has dealt with this problem is by sending its surplus inmates to out-of-state correctional facilities. Since 1998, Vermont has been housing some of its prisoners at various state, county and privately-owned prisons from as far away as Arizona and as close to home as Massachusetts – about 10 different facilities in total.

31. Vermont also saves money by shipping these surplus inmates to private facilities, shopping around for contracts that reduce the cost per prisoner by as much as 50%.

32. In recent years, this surplus inmate population had been held at the Camp Hill State Correctional Facility in Pennsylvania, during which time three inmates died, and concerns were raised by prisoners about poor treatment and access to medical care.

33. On September 12, 2018, a day before Mr. Simpson's arrest for his underlying charges, an inmate of Camp Hill who had been sent there from Vermont wrote a poignant open letter to Corrections Commissioner Lisa Menard. The inmate wrote, in part:

You may say, "We're moving you soon. Isn't it better late than never?" Unfortunately for many it's already too late. It's too late for those who have died: Roger Brown, Tim Adams, Herbert Rogers and Michael Senna. It's too late for Kyle Doyle,

who was physically assaulted by staff and countless others who've been verbally harassed, demeaned and threatened. It's too late for those whose personal property was ransacked, stolen and trashed; it's too late for those forced to breathe 14 months of cancer-causing second-hand smoke. It's too late for those whose Vermont Court orders and stipulation agreements have been blatantly ignored. It's too late for those whose few remaining rights have been trampled on by the Commonwealth of Pennsylvania again and again.

I believe Vermont values integrity, transparency, empathy, humane treatment and rehabilitation. This contract was contrary to those values. It fostered anger, bitterness and resentment. What a sad reflection of our criminal justice system this has become and the general public doesn't know the half of it.

34. In the months and years leading up to Mr. Simpson's arrest, Vermont had been under increasing public scrutiny over this patchwork solution of shipping surplus inmates out of state, largely due to the human rights violations occurring at Camp Hill.

35. In an effort to alleviate the public scrutiny and – once and for all – eliminate the need to ship surplus inmates out of state, Vermont settled on a series of solutions that involved further decreasing its already low prison population. While Vermont has chosen to brand these recent changes as "criminal justice reform initiatives," the truth is they are an attempt to get its prison population at or below the number of available beds.

36. On or around January 10, 2018, Vermont Attorney General Donovan held a news conference that would set the stage for future changes. He started by urging lawmakers to reform the state's already lenient bail statutes; but he was also careful to emphasize protection of the public. He claimed that the bail reform he sought would involve misdemeanors and nonviolent crimes and would not put the community at any increased risk.

37. Mr. Simpson's underlying charges for his September 2018 arrest involved felonies and violent crimes that put the community at increased risk.

38. A few months after this January 2018 news conference, Vermont passed Act 164, a bail reform initiative that made it easier criminal defendants to be released from detention pretrial.

39. Shortly after the passing of Act 164, on August 2, 2018, Vermont issued a self-serving press release titled: “Attorney General Donovan Touts Progress on Criminal Justice Reform Initiatives.” The press release, in part, addressed Act 164, the new bail reform law:

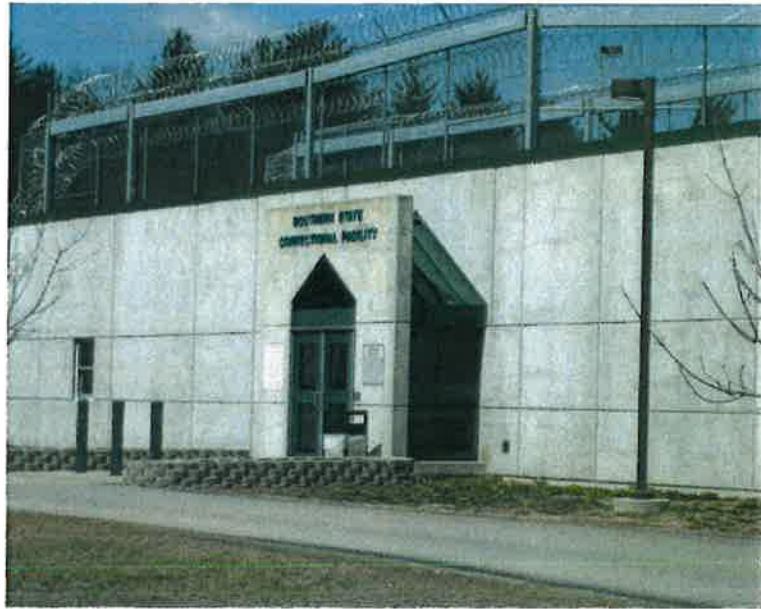
The Attorney General also championed a significant bail reform bill during the 2018 legislative session, which is now law. The bail reform law, Act 164, contains a package of reforms to ensure low-income individuals are not held in jail prior to trial simply because they are poor. “Staying in prison even for a short time can have dire economic consequences and a devastating effect on families,” Attorney General Donovan said. **“Bail reform will help ensure that only those who are a danger to the community or a genuine risk of flight from prosecution will be held in jail prior to trial.”**

40. If we apply Donovan’s words, then Mr. Simpson should have been held pretrial and his release should not have occurred.

41. Yet, almost a year later, on March 1, 2019, when pressing state charges against Mr. Simpson, Windsor County State Attorney David Cahill observed that Mr. Simpson’s case points out flaws in the way Vermont handles defendants who may pose a risk to the community. Cahill explained that under Vermont’s now existing law a pretrial suspect can’t be detained on high bail or without bail, even if he poses a risk to the public, unless they are already facing a “very serious offense,” such as murder or kidnapping. Cahill summed it by stating: “[bail] does not exist to protect the public” in Vermont.

42. If we apply Cahill’s words, which seem a more accurate representation of Vermont’s recent “criminal justice reform initiatives,” then that means dangerous criminal

defendants who pose a risk to the community and are awaiting trial for violent felonies will continue to be transferred from secured correction facilities like this:



To private, non-locked-down facilities like Valley Vista as pictured below:



43. Private treatment facilities like Valley Vista are often in the middle of a residential area, and the only thing between dangerous criminal defendants like Mr. Simpson and the local community are a couple unlocked doors and a residential fence. Below is a view of Valley Vista from a neighboring home:



44. To be clear, Plaintiffs' instant action cannot and does not seek to second-guess the wisdom of Vermont's legislature in its response to its bed shortage for inmates or its enactment of bail reform. Plaintiffs do not seek to impose liability upon the State or Valley Vista for the acts of the legislature and/or Vermont's policy decision to transfer certain classes of inmates from correctional facilities into a rehabilitative program.

45. Rather, Plaintiffs' complaint simply seeks to hold the state of Vermont and Valley Vista accountable under the unique facts and circumstances of this case. If Vermont and Valley Vista are not held liable here under these facts, and if there is no civil repercussion, the downstream consequences would be terrifying.

46. If there is no liability, then Vermont and private facilities like Valley Vista will be able to continue to place dangerous criminal defendants into private, non-locked down

facilities, freely make and break promises about how the defendant will be handled, do whatever they want once the defendant is in the non-locked down facility, let them escape, choose not to track them down or notify the public, and have complete immunity for the resulting harm that is inflicted.

**VERMONT AND VALLEY VISTA KNEW THAT MR. SIMPSON POSED A SIGNIFICANT FLIGHT RISK AND A SERIOUS RISK OF HARM TO OTHERS**

47. The record is replete with evidence that both Valley Vista and Vermont had actual and/or constructive knowledge of the serious risk posed by Mr. Simpson, including the risks associated with transferring him to a private, non-locked down facility. These risks include but are not limited to the high risk of: escaping, stealing motor vehicles, evading authorities and committing violent felonies; i.e. including but not limited to committing crimes substantially similar to and/or “exactly like” those for which he was awaiting trial. Not only was the trauma inflicted on Plaintiffs here foreseeable, Vermont and/or Valley Vista in fact expressly acknowledged such risk, and expressly undertook the performing of certain services to prevent such events from occurring.

48. Defendants further knew the serious risks that would be posed if they did not, at a minimum, comply with the court-ordered terms of Mr. Simpson’s release that they had assumed.

49. Mr. Simpson has a lengthy history of arrests, beginning as early as 1995, with multiple convictions and allegations of violations of conditions of release and abuse prevention orders. These convictions include no less than nine misdemeanors and six felonies as follows:

- April 18, 1995- disorderly conduct (misdemeanor)
- April 18, 1995- simple assault (misdemeanor)
- April 18, 1995- simple assault (misdemeanor)

- October 9, 1995- stalking (misdemeanor)
- October 9, 1995- burglary (felony)
- October 9, 1995- escape (felony)
- October 9, 1995- violation of abuse preventative order (misdemeanor)
- October 9, 1995- violation of conditions of release (misdemeanor)
- October 9, 1995- violation of abuse preventative order (misdemeanor)
- October 9, 1995- burglary (felony)
- October 9, 1995- burglary (felony)
- October 9, 1995- burglary (felony)
- May 7, 1996- aiding in the commission of a felony (felony)
- July 29, 1996- theft of services (misdemeanor)
- February 27, 2001- retail theft (misdemeanor)

50. On or around 2010, Mr. Simpson married Sherise Simpson. She described their relationship over the past nine years as follows: "He would say he owns me, I'm his property, we don't associate with people."

51. On September 13, 2018, Mr. Simpson stole an SUV from a hospital in Littleton, NH, leading to a high-speed chase with authorities. Mr. Simpson then violently resisted arrest, including an attempt to take Sgt. Winn's gun from its holster, breaking Sgt. Winn's hand in the process. Mr. Simpson was arraigned on two felony and three misdemeanor charges: aggravated assault of a law enforcement officer, gross negligent operation, attempting to elude, aggravated operation without owner's consent, and excessive speed— wrongf ul acts eerily similar in nature to the ones he would later commit against Plaintiffs.

52. As Judge Bent noted during Mr. Simpson's September arraignment hearing: "He attempted to flee from police. It's sort of axiomatic that he's a flight risk." As a result, Mr. Simpson was initially jailed on \$20,000 bail at a local correction facility while he was awaiting trial.

53. Nevertheless, on or around November 20, 2018, more than two months into Mr. Simpson's detention, his attorney filed a motion to modify bail on the basis that Mr. Simpson required certain substance abuse treatment. The Court granted Mr. Simpson's Motion to Modify Bail, reducing bail to \$5,000.

54. However, the court was careful to further order very clear conditions and requirements of his release, including:

**Defendant will sign a release authorizing Valley Vista to immediately notify police if he leaves against medical advice (AMA) and that an arrest warrant will issue immediately if he does leave AMA.**

55. For the following month, Mr. Simpson did not post bail and he stayed at the local correctional facility. On December 28, 2018, Everett Simpson's attorney filed a new Motion to Modify Bail, this time seeking to further reduce his bail down to \$3,000. Then, on December 31, 2018, Everett Simpson's attorney filed yet another motion, this time seeking to strike bail entirely. The State objected to both motions, refusing to decrease the bail any lower than \$5,000.

56. After a brief hearing on both motions, the court reluctantly granted the motion reducing bail to \$3,000, but not striking it entirely:

"The court is disinclined to do it — to modify the bail," Bent said. "If \$3,000 will do it, the court would take it to \$3,000, but I need to have some substantial bail down because when the blue lights came on he took his car to 90 mph and attempted to elude, that does not warm the cockles of my heart...Somebody is going to have to come up with sufficient funds so that he will likely return ... I'll move it to \$3,000 on his record, but not strike it entirely."

57. The court was again careful to order the terms of release quoted above. To be clear that includes, in part:

**Defendant will sign a release authorizing Valley Vista to immediately notify police if he leaves against medical advice (AMA) and that an arrest warrant will issue immediately if he does leave AMA.**

58. Mr. Simpson was apparently the subject of pretrial release from three Vermont counties, including a case in Chittenden County for Cruelty to a Child and for False Information to law Enforcement, a case in Caledonia County for Eluding Law Enforcement – Negligent Operation and for Vehicle Operation Without Owner Consent, and a case in Washington County for Failure to Return a Rented or Leased Motor Vehicle and for Operation Without Owner's Consent.

59. As a result of Mr. Simpson's child cruelty charges, his wife's son had been placed in DCF custody.

#### **VALLEY VISTA'S CONSCIOUS DISREGARD**

60. OAS, LLC, dba Valley Vista began as an 80-bed inpatient residential treatment center located in Bradford, VT. It was initially formed as a VT corporation under the ownership of two individuals from New York, who responded to a Request for Proposal (RFP) issued by the VT Department of Health's Division of Alcohol and Drug Abuse Programs (ADAP) for a multipurpose residential treatment program. In addition to adult treatment programs, Valley Vista (VV) established an Adolescent Treatment Program (ATP) to provide inpatient primary treatment and extended therapeutic treatment to chemically dependent adolescents within a structurally supportive environment. The Adolescent Treatment Program was licensed through the Department for Children & Family Services (DCF) to operate a Residential Treatment

Program to serve a maximum of eleven youth, male and female, 13 up to 18 years of age. Valley Vista was initially granted tutorial program approval by the Vermont State Board of Education in 2007. Pursuant to 16 V.S.A. §11 and SBER 2230.1, a tutorial program means education provided to a pupil who is placed in a short-term program for evaluation and treatment purposes that is not administered by a school district.

61. Private substance abuse treatment facilities play an important and delicate role in Vermont, including their services for inmates and pretrial detainees.

62. As Vermont State Attorney Cahill stated on March 1, 2019 when pressing charges against Mr. Simpson: “The State has not invested in providing an environment where individuals can receive intensive substance abuse treatment while also being lock and key for protection of the public... We have prisons. We have private-sector medical facilities. We don’t have anything that blends the two.”

63. In September of 2017, Meridian Behavioral Health acquired OAS, LLC, dba Valley Vista. Meridian Health is based out of the twin cities area of Minneapolis-St Paul and now owns Valley Vista.

64. Meridian’s acquisition of Valley Vista has had a significant and negative impact on the care and services provided at Valley Vista.

65. On February 18, 2018, a current Recovery Specialist at Valley Vista posted: “MBH (Meridian Behavioral Health) recently acquired the rehab facility I work at and nothing good has come of it. I love my job working with the patients, but since MBH took over we can’t provide the level of care we need to, due to them firing SEVERAL good staff members and pushing us to document everything is overly complex and counterintuitive. People who have

worked at the facility for a decade are considering quitting, due to the lack of staff causing extreme stress.”

66. Dozens of similar statements reveal a disturbing corporate culture at both Valley Vista and its new parent company, Meridian. The constant themes are understaffing, undertraining, emphasis on profit over people, and poor management.

67. At all times, Vermont knew and/or should have known of these significant issues, including Valley Vista’s conscious disregard of the consequences of its action and emphasis on profit over people.

68. On January 27, 2016, a former employee of Valley Vista wrote: “Do Not Work Here! You have been Warned! Upper management is horrible. They are completely detached and uncaring. Borderline corrupt. Human Resources is a bad joke. The whole program seems to be designed to fail, which creates repeat clients, which equals more Medicaid money. Greed first seems to be policy. Lastly, Beware the evil wizard! He may act jovial, but he is mean as a snake. And obtuse.”

69. On February 10, 2017 a former employee of Valley Vista wrote: “Money making business for management, no compassion for clients or staff. Management very poor, not in touch with staff or clients not a lot of support from higher management.”

70. The complaints and issues are no different when coming from Meridian employees.

71. December 10, 2018, a former RN manager at Meridian wrote: “Run fast and far. RN in a Leadership role. No regard for the profession and responsibilities, only that they employ one to fulfill the licensing requirement and so they have someone to throw under the bus when someone ODs in their program.”

72. On September 21, 2018, a current Trained Medication Aide at Meridian wrote: “Don’t do it. Literally the worst company I have ever worked for. They don’t actually care about the clients. They care about money. From what I saw they don’t even care if they actually help people, they’re just fine with coming back. Keeps the money coming I guess. The minute you do go out of your way to help, you get in trouble for doing so. They pretty much make up their own rules from day to day on who can do what. They have no accountability when they do fail in helping people. There’s absolutely no stability. Somehow, they can’t seem to understand how their success rate is so low. Maybe because this company is 100% for profit and could care less about the actual care its residents receive?”

73. State inspections of Valley Vista reveal even more concerns about their operations.

74. During a recent February 26, 2014 inspection, there were two incidents consistent with Valley Vista’s pattern of practice of concealing and/or failing to report incidents of abuse and/or neglect to authorities.

75. First, Valley Vista was cited for failing to report or even look into an incident of abuse. The clinical director falsely claimed that “I remember we did an investigation” and that she “thought someone from New Hampshire came here to investigate.” However, the facts revealed that there was no evidence that APS was ever contacted, and no evidence that any internal investigation was carried out.

76. Second, Vermont inspectors observed that a resident’s progress notes stated that the resident was being treated unfairly and belittled by staff, fearful of retaliation for speaking up, and did not feel safe at Valley Vista. The clinical director chose not to report the incident although was clearly required to do so. The clinical director also noted during inspection that

she thought reports should be made to ADAP (alcohol and drug abuse program), and not APS. That is either an intentionally false statement, or a grossly negligent misunderstanding of reporting requirements.

77. Other inspections revealed additional issues relating to: recording of medication distribution, use of unqualified personnel to distribute medication, distributing mediation without a doctor's order for it, consistent failure to meet staff training requirements, and the facility being unsanitary and in a condition of disrepair.

78. Consistent with Valley Vista and/or Meridian's "heads in beds" mentality, they were also consistently cited for squeezing too many people into its rooms. This includes several instances of three beds being placed in rooms that were approximately 230 sq ft, and one incident of a 292 sq ft room housing five beds. The required minimum is for a room to have 100 sq ft per bed. Valley Vista and/or Meridian knowingly and consistently violated this rule, putting profit over safety.

79. Valley Vista and/or Meridian controlled the operation, planning, management, and quality control of Valley Vista, the treatment facility in which Mr. Simpson was a resident. This included, but was not limited to, control of marketing, human resources management, training, staffing, creation and implementation of all policy and procedures used, and licensure and certification. It is and was Valley Vista and/or Meridian's corporate philosophy to place its own financial wellbeing over the needs of its residents.

80. Valley Vista and/or Meridian were not adequately providing care for the residents of Valley Vista. Valley Vista and/or Meridian were aware of the complaints, concerns and problems at its facility, as was Vermont. Valley Vista and/or Meridian ignored these complaints, concerns and problems and focused on maximizing their profits.

81. Before admitting Mr. Simpson, Valley Vista and/or Meridian were aware of the serious flight risk and serious risk of harm that he posed to others, as stated herein. This included the specific risk of evading authorities, motor vehicle theft, and violent felony assault. Valley Vista and/or Meridian knew and/or should have anticipated the increased risk of harm that would be created if Mr. Simpson were to escape – especially if they failed to “immediately” notify authorities, and instead were to gift him a 90-minute head start. Valley Vista and/or Meridian represented that it could adequately protect against these risks. Valley Vista and/or Meridian undertook and/or had a duty to, at a minimum, “immediately” notify authorities if Mr. Simpson escaped.

82. Notwithstanding this knowledge, Valley Vista and/or Meridian failed to discharge its duties, including failure to monitor and/or supervise Mr. Simpson, failure to “immediately” notify authorities that he had left, and a failure to provide sufficient staff, services, training, and supplies to properly discharge all of its duties. Valley Vista’s staff was understaffed, inexperienced, and/or inadequately trained. Valley Vista negligently admitted Mr. Simpson into its facility with actual and/or constructive knowledge that it would not properly discharge its duties.

83. In an effort to fill its beds and admit residents like Mr. Simpson, Valley Vista held itself out as: Properly and adequately staffed, supervised, and equipped to handle the unique needs and risks of its residents, and complying on a continual basis with all rules, regulations, and standards established for skilled nursing facilities.

84. Valley Vista failed to properly discharge its duties.

85. At 10:59 p.m., Thursday, January 3, 2019, Mr. Simpson arrived at Valley Vista.

86. Less than 24 hours later, at 9:47 p.m. on Friday, January 4, 2019, Vermont State Police received a dispatch from Valley Vista that Simpson had left the facility in violation of his court-ordered conditions. A trooper at the St. Johnsbury barracks spoke with the caller from Valley Vista and learned that Mr. Simpson had not been seen since 8:30 p.m. Discovery will reveal how much earlier than 8:30 p.m. he had in fact left.

87. According to this timeline, it took Valley Vista no less than an hour and a half to realize and/or choose to notify Vermont State Police that Mr. Simpson had left their facility. This delay is inexcusable and a far cry from “immediate.” Valley Vista’s breaches of duty increased the risk of harm to Plaintiffs by gifting Mr. Simpson no less than an hour and a half head-start.

88. Other than belatedly notifying authorities that Mr. Simpson had escaped, Valley Vista did nothing else. No public alerts. No knocks on the doors of neighbors. No notification to Mr. Simpson’s wife. Nothing. Even when Valley Vista knew and/or should have known that the community of Bradford, VT was in the zone of danger, it still did nothing.

89. Wilma Dexter, a Bradford resident whose house is right next door to Valley Vista was critical of Valley Vista’s response: “We didn’t have any idea, so for all they knew he could be in our home, holding us hostage.” She added: “My husband and I were quite upset that we weren’t informed this guy was on the loose because it’s not safe for us, and I think people in the area should be told.”

90. Her husband Lane Dexter remarked on how close their home is to Valley Vista: “From here to there, it’s probably 25-30 feet.”

91. Another neighbor added: “I didn’t realize that there were dangerous people there, that dangerous, it caught my attention.”

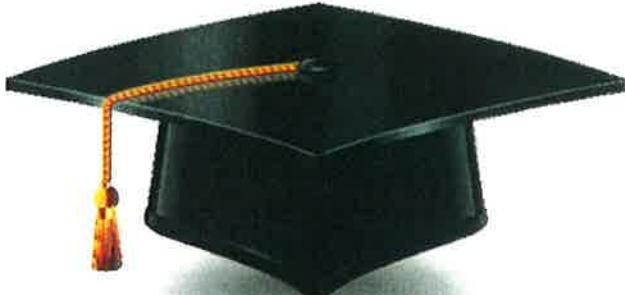
92. This is not the first time that Valley Vista has chosen to wait hours before notifying authorities that a transferred criminal defendant had escaped.

93. In January of 2015, a Ms. Crystal Barney was similarly transferred to Valley Vista while awaiting trial. On February 18, 2015, she left out the window of her room. As in the current situation, although Valley Vista had actual knowledge that Ms. Barney had left their facility at 2:00 a.m., they chose to wait five hours, until 7:00 a.m., to report to authorities that she was missing. Notably, in Ms. Barney's case, the court-ordered terms of her release did not include the unique requirements here – almost certainly because she did not pose the unique and significant risks Mr. Simpson did.

94. Even with these court-ordered duties in place for Mr. Simpson, Valley Vista still acted with conscious disregard for the consequences of its action and delayed notification. Without civil liability, Valley Vista will be empowered to continue disregarding its duties.

95. While Mr. Simpson was still on the loose, and before Plaintiffs had been kidnapped, Valley Vista finally decided to make an announcement on its Facebook page, just not the type one may hope or expect. Instead of alerting local communities to the fact that Mr. Simpson had escaped or of the potential danger he posed (that would be bad for business), Valley Vista was instead focused on planning their big alumni event for Sunday January 6, 2019. On the morning of Saturday January 5, 2019, Valley Vista posted on its Facebook page:

We'd Love to See You!!



WEB-EXTRACT.CONSTANTCONTACT.COM  
We'd Love to See You!!

96. Valley Vista was not required to admit Mr. Simpson – it chose to do so, and for profit. And before choosing to do so, Valley Vista knew that admitting him increased the risk of harm to others. Valley Vista knew that Mr. Simpson posed a serious risk of harm to others, especially if he were to escape and be allowed to roam free in the community: Valley Vista knew that this risk of harm specifically included evading authorities, motor vehicle theft, and committing felony assault. Valley Vista knew that the court-ordered terms of his admission were specifically designed to protect against that serious risk of harm he posed to the community. Valley Vista knew that if it failed to properly monitor Mr. Simpson and/or “immediately notify police if he leaves against medical advice” that such failures would increase the risk of harm to third parties such as Plaintiffs. Armed with this knowledge, Valley Vista negligently chose to undertake the performance of certain services and chose to put itself in a special relationship with Mr. Simpson. Valley Vista knew that Vermont was in reliance on it to uphold its end of the bargain.

97. On all occasions complained of herein, Mr. Simpson was under the care, control, supervision, and treatment of the agents and/or employees of Valley Vista and/or Meridian and

the injuries complained of herein were proximately caused by the acts and omissions of Valley Vista and/or Meridian.

98. Valley Vista and/or Meridian's treatment of Mr. Simpson revealed a conscious disregard for the rights and safety of others. At all times mentioned herein, Valley Vista and/or Meridian had knowledge of, ratified, or otherwise authorized all of the acts or omissions that caused the injuries suffered by Plaintiffs. Valley Vista and/or Meridian knew that, due to its lack of adequate resources, it could not provide even the minimum standard of care required for residents like Mr. Simpson and as a result, Plaintiffs suffered the ordeal described herein.

99. At all times relevant herein, Valley Vista and/or Meridian operated and managed Valley Vista so as to maximize profits by reducing the resources to a level below that which was needed to provide care to the residents and protect against unnecessary risks of harm to others. Specifically, Valley Vista and/or Meridian intentionally and with knowing and reckless disregard for the consequences of their actions caused staffing levels and supplies and other resources needed to be set at a level where its employees could not reasonably provide the necessary services to residents. All of these acts of malfeasance directly caused injury to Plaintiffs and were known to Valley Vista and/or Meridian. The acts and omissions of Valley Vista and/or Meridian were motivated by a desire to increase the profitability and net worth of Valley Vista and/or Meridian.

#### **VERMONT'S CONSCIOUS DISREGARD**

100. Plaintiffs incorporate by reference the timeline released to the media by the Vermont State Police.

101. The timeline establishes that Vermont failed to exercise even the slightest degree of care under these unique circumstances, including failing to do the bare minimum by failing to “immediately” issue an arrest warrant as it undertook and/or had a duty to do.

102. All that was done in the 12 hours following Simpson’s escape is as follows: One officer, who was since suspended as a result, drove to Mr. Simpson’s last known address.

103. The officer then reported to another call, and it was as if Mr. Simpson never escaped in the first place.

104. Around 1 a.m. on Saturday, January 5, 2019, this same officer sent an email to other troopers that Simpson had escaped earlier. Discovery will confirm if this officer was in fact Trooper Brennan.

105. Later that same Saturday morning at 7:53 a.m., when local Vermont residents were waking up to begin their day, it was discovered that a vehicle had been stolen nearby Valley Vista. The vehicle was more likely than not stolen much earlier than that. Vermont’s timeline is vague as to whether, upon report of this stolen vehicle, it made the obvious connection between that stolen vehicle and Mr. Simpson’s escape.

106. Future discovery is needed to develop many important factual issues.

107. At 8:37 a.m. on the same morning of Saturday, January 5<sup>th</sup> – The vehicle that Mr. Simpson had stolen in Vermont was located unoccupied in a parking garage in Manchester, NH, by local police. This is more than four hours before Plaintiffs were kidnapped. Defendants continued to do nothing even though they had actual and/or constructive knowledge that Mr. Simpson was now in the community of Manchester, NH.

108. Vermont has since admitted that among its many failures was the failure to issue a public alert. Defendants’ duties included a duty to notify the community of Manchester that

Mr. Simpson was at large, and that he was highly capable of stealing vehicles and committing felony assault. Had Vermont issued such an alert, Celia never would have visited the Mall of New Hampshire, and this incident never would have happened.

109. Eight hours later, at 4:30 p.m. on Saturday, Jan. 5 – Vermont State Police finally take some action – they compare the surveillance photos from the Manchester parking with Valley Vista’s description of Mr. Simpson. By this time, Plaintiffs had already been kidnapped, tormented, and subjected to sexual violence.

110. It does not appear that Defendants ever notified Mr. Simpson’s wife that Mr. Simpson had escaped, even though they knew he presented a serious risk of danger to her specifically. Another one of the terms of Mr. Simpson’s release was that he have no contact with his wife.

111. Vermont’s complete lack of diligence, knowledge and action regarding Mr. Simpson’s escape is also well illustrated by the statements it made immediately after the incident. Shortly after Mr. Simpson was arrested in Pennsylvania for his crimes against Plaintiffs, a Vermont state police spokesperson, Adam Silverman, falsely stated to the public that, “The Vermont State Police received no notification that Everett Simpson had left the facility.”

112. Mr. Silverman made other uninformed or insensitive statements, such as:

Through all of the various local and federal partners across at least three states, numerous jurisdictions and crimes that occurred while he was on the run, **we are very thankful that this case could be brought to a safe resolution** as it was without further harm to the public.

113. Mr. Silverman also stated:

**“It’s our understanding that he had just reported (to the facility) when he left the premises. **He could have been there a very short time, less than a day, maybe even less than an hour.**”**

114. Eventually, the truth was revealed - that at 9:47 p.m. on Friday, January 4, 2019, Valley Vista had indeed informed Vermont State Police that Mr. Everett Simpson had escaped the facility.

115. The same day that Vermont State Police began its internal probe into its handling of Mr. Simpson’s escape, Trooper Sean Brennan was suspended. Also, with the probe just beginning, Vermont already knew enough to state: **“The Vermont State Police has determined that there were additional steps that should have been taken, including seeking an arrest warrant on Friday night, Jan.4; issuing a ‘be on the lookout’ alert for Simpson; and issuing a news release informing the public about Simpson.”**

116. Vermont had special knowledge and notice to anticipate that Mr. Simpson would escape treatment and commit the types of wrongful acts he later committed against Plaintiffs. Vermont chose to release him to a private, non-locked down facility. In so doing, Vermont voluntarily undertook and/or had a duty to immediately arrest Mr. Simpson and/or issue an arrest warrant for the precise purpose of preventing the foreseeable consequences. One clearly foreseeable consequence of Vermont’s failure to immediately seek the arrest Mr. Simpson is that he would again the commit the types of acts for which he was already awaiting trial. Vermont also knew that Valley Vista was in reliance on it to perform its end of the bargain.

117. The State of Vermont has already admitted that the crimes Mr. Simpson committed against Plaintiffs were “in fact... exactly like the underlying charge.” In its January 10, 2019 Motion to Revoke Conditions of Release and Bail, Vermont stated: “In the instance case Defendant has clearly violated his conditions of release by leaving Valley Vista attempting

to contact his wife and by committing new crimes. In fact, he is accused of committing an offense exactly like the underlying charge as well committing offenses against a person...Given Defendant's dangerous, violent behavior and clear disregard for court conditions the State contends that his bail should be revoked..."

## **SUMMARY**

118. The unique facts and circumstances of this particular incident establish that: 1) Defendants had actual knowledge that Mr. Simpson posed a serious flight risk and serious risk of harm to others, including committing acts just like those for which he was already awaiting trial; 2) Defendants nevertheless chose to assume the risks associated with transferring Mr. Simpson to a private, non-locked down facility; 3) Vermont and Valley Vista undertook the performing of certain services to prevent the foreseeable risk posed by Mr. Simpson by virtue of his transfer to a non-locked down facility; 4) Defendants, through inexcusable inaction and conscious disregard, failed to do the bare minimum they undertook and/or had a duty to do; 5) Defendants' ongoing breaches in fact caused the very foreseeable consequences they were supposed to protect against, including Mr. Simpson committing violent crimes against our Plaintiffs that were "exactly like the underlying charge;" and 6) Defendants knew and/or should have known that its ongoing breaches had placed the community of Manchester, NH in the zone of danger no less than four hours before Plaintiffs were kidnapped.

119. Valley Vista and/or Meridian's duties included a duty to exercise that reasonable degree of skill, knowledge, and care ordinarily possessed and exercised by members of that professional specialty under similar circumstances. In discharging this legal duty Valley Vista and/or Meridian was required to take reasonable precautions to protect third parties from the likely danger that would be created by the escape of Mr. Simpson, including: immediately

notifying the police as it was required to, providing appropriate treatment and/or monitoring to recognize immediately if he did intend to escape, notifying others of the risks posed by the patient, or taking other steps to ameliorate the risk posed by the patient.

120. Likewise, Vermont's duties included a duty to exercise that reasonable degree of skill, knowledge, and care under the circumstances. In discharging this legal duty Vermont was required to take reasonable precautions to protect third parties from the danger created by the escape and/or release of Mr. Simpson, including: immediately issuing an arrest warrant as it was required to, issuing a 'be on the lookout' alert for Simpson, and issuing a news release informing the public about Simpson.

121. Vermont has publicly admitted to breaching these duties.

122. Valley Vista and/or Meridian chose to form a special relationship with Mr. Simpson.

123. Defendants, individually and collectively, knew that Mr. Simpson had dangerous propensities.

124. Defendants, individually and collectively, assumed custody and control of Mr. Simpson with the actual and/or constructive knowledge that he was likely to cause bodily harm to others if not controlled. Defendants' purpose in assuming custody and control of Mr. Simpson was explicitly to control him. Attempts to exercise that control were consistent with the specific objective of insulating Mr. Simpson, who had known dangerous propensities, from uncontrolled contact with others who Defendants knew or had reason to know were likely to be harmed by Mr. Simpson. Mr. Simpson's terms of release further stated that he was to return to a correctional facility upon completion of rehab, indicating Vermont intended to control Mr. Simpson.

125. Due to Defendants' ongoing failures, the class or zone of danger was able to reach the community of Manchester, NH, no less than four hours before Plaintiffs were kidnapped. Defendants knew or should have known well in advance of the kidnapping of Plaintiffs that the zone of danger had expanded to the community of Manchester, NH. Defendants had a duty to anticipate that Plaintiffs had been placed in the zone of danger, yet they did nothing to prevent the ensuing harm.

126. Defendants, individually and collectively, had a duty to exercise reasonable care to control Mr. Simpson and prevent him from doing such harm.

127. Defendants' acts, omissions and/or breaches were a proximate cause of Plaintiffs' damages and needlessly endangered the safety of third parties, including but not limited to Plaintiffs and others in the community of Manchester, NH.

128. Defendants' acts, omissions and/or breaches at issue were not deliberate decisions that involved the balancing of competing concerns of productive therapy, confidentiality, other aspects of Mr. Simpson's well-being, and/or the interest of public safety. Rather, through gross negligence, Defendants simply failed to exercise even the slightest degree of care.

129. Social considerations warrant imposition of liability under these unique facts and circumstances, not only to provide compensation to these wrongful victims but to encourage protective agencies to perform their duty diligently in the future.

130. Defendants, individually and collectively, made multiple errors in judgment in performing a straight-forward task. These errors arose in a context where the need for particular care was great. Defendants, including Doe Defendant individual employees, heedlessly and palpably violated a legal duty owed to Plaintiffs.

131. Defendants' failures to take certain action rise to the level of deliberate indifferent to risk. Defendants ignored and/or were willfully blind to the strong likelihood that harm would occur as a result.

132. The Doe Defendants and/or yet-to-be-identified grossly negligent state employees involved in this incident did not reasonably believe they were acting within the scope of authority, nor were they acting in good faith, nor were they performing discretionary acts.

133. Defendants, individually and collectively, expressly undertook to protect against the significant risk of harm that Mr. Simpson posed to others, especially in the event he be allowed to roam free in the community. Defendants had actual notice of the court-ordered terms of Mr. Simpson's release as well as the fact that he had escaped. Yet, Defendants ignored the court-ordered terms.

### **CAUSES OF ACTION**

The specific causes of action set forth below are not intended to limit and/or waive Plaintiffs' existing rights and remedies under the applicable law when so applied to the facts set forth herein.

#### **COUNT I - NEGLIGENCE**

134. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

135. The Defendants had a duty to exercise that reasonable degree of skill, knowledge, and care under these particular circumstances.

136. The Defendants breached said duties.

137. As a direct, proximate, and foreseeable result of the Defendant's negligence, Plaintiffs suffered the damages stated above.

## **COUNT II –VOLUNTARILY ASSUMED DUTY**

138. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

139. Defendants voluntarily assumed certain duties associated with Mr. Simpson's admission to Valley Vista, notably the court-ordered terms of his release.

140. Defendants breached these voluntarily assumed duties.

141. As a direct, proximate, and foreseeable result of the Defendants' negligence, Plaintiffs suffered the damages stated herein.

## **COUNT III –GROSS NEGLIGENCE**

142. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

143. Defendants, including Doe Defendant individual employees, made multiple errors in judgment in performing a straightforward task. These errors arose in a context where the need for particular care was great. Their conduct amounts to more than an error of judgment.

144. Defendants, including Doe Defendant individual employees, heedlessly and palpably violated a legal duty owed to Plaintiffs.

145. Vermont's Tort Claims Act does not shield its employees from liability when their conduct rises to the level of gross negligence.

146. Plaintiffs reserve the right to amend the complaint and/or identify Doe Defendants when such individuals are identified through discovery.

## **COUNT IV –PUNITIVE DAMAGES**

147. Plaintiffs incorporate by reference, as if fully set forth herein, all other paragraphs of this complaint.

148. Defendants' acts and/or omissions were in conscious and deliberate disregard of a known, substantial, and intolerable risk, with the knowledge that its omissions were substantially certain to result in the threatened harm.

149. By the conduct alleged herein, Plaintiffs are entitled to punitive damages.

**JURY TRIAL DEMAND**

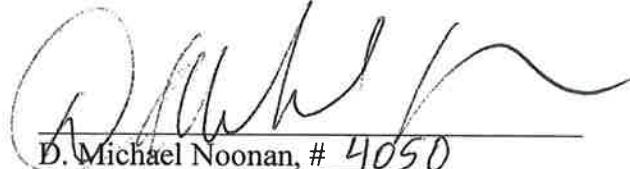
150. Plaintiff demands a trial by jury.

**WHEREFORE**, Plaintiff seeks the following relief and recovery against the Defendant:

- A. Compensatory damages to Plaintiffs for past, present, and future damages, including, but not limited to, pain and suffering, for severe and permanent personal injuries sustained by Plaintiff, permanent impairment, mental pain and suffering, loss of enjoyment of life, death, past and future health and medical care costs, together with interest and costs as provided by law;
- B. Punitive damages;
- C. All ascertainable economic damages, including past and future loss of earnings and/or earning capacity;
- D. Costs, pre-trial interest, and attorneys' fees; and
- E. Such further relief as may be proper and just.

Respectfully submitted,  
C.R. and J. R.  
By Their Attorneys

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March  
Dated: February 4, 2019